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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,529	10/02/2000	Neelakantan Sundaresan	AM9-99-0149	5198
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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
			EXAMINER GARG, YOGESH C	
			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/676,529	Applicant(s) SUNDARESAN, NEELAKANTAN	
	Examiner Yogesh C. Garg	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/2/2000</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment received on 8/25/2005 is acknowledged and entered. Claim 22 is amended. Currently claims 1-24 are pending for examination.

Response to Arguments

2. Applicant's arguments, see Remarks pages 13-19, filed 8/25/2005, with respect to the rejection(s) of claim(s) 1-24 under 35 USC 103 (a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Gillman (US Publication 2002/0147674).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 4, 12-17, & 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Gillman.

Referring to claim 1, Gillman discloses a method for conducting electronic commerce, comprising:

- Electronically visiting, by a customer interested in shopping for an item, a pre-selected comparison shopping site, and inquiring about the item and comparative prices thereof (see at least Fig.1 and paragraphs: 0030-0031, wherein a customer interested in shopping for products and services or a specialized item such as forging accesses an electronic reverse auction system, which corresponds to the claimed comparison shopping site and as detailed in Gillman the reverse auction system comprises receiving comparative prices from different competitors);
- Running, by the pre-selected CompShop, a query on a plurality of electronic stores carrying the item, and asking for a price of the item (see at least paragraph 0034 which discloses posting the user's requirement to a plurality of electronic stores/suppliers [see Fig.1, "30 S"] asking for the price quote), the plurality of electronic stores including at least one smartStore and determining by the at least one smartStore that the query is received from the preselected CompShop (see at least paragraphs 0011and 0035 which disclose that the pre-selected CompShop sets up a private auction allowing only pre-selected suppliers which implies that the pre-selected suppliers would inherently determine that the RFQ has come from a pre-selected/identified entity, that is the comparison shopping site. The suppliers of the private auction club correspond to smartStores .);
- Selectively determining, by the smartStore, an offer price of the item and selectively returning one of a static price and a modified price, wherein the modified price and selectively returning, by the SmartStore, of said one of the static price and the modified price result from the smartStore learning a best offer price received by the

preselected CompShop from the plurality of electronic stores (see at least paragraphs 0041-0043. Para 0041 discloses suppliers bidding on the user's requirement and those bids correspond to the static price but then. Para 0043 discloses that suppliers, that is smartStores offer selectively modified price after learning the best offer price, that is a competitor offering lower price than his.).

Referring to claim 2. Gillman further discloses a method comprising returning a static price by at least one of the plurality of electronic stores determined not to be the SmartStore (see at least paragraph 0035 which discloses that prices are also requested from general suppliers who are not the selected suppliers and they will return the static prices, that is their standard prices as they do not get to view the feedback of other competitors' prices which motivates the selected suppliers/ smartStores to determine to quote or not modified prices.).

Referring to claim 3. Gillman further discloses a method comprising sending, by the SmartStore, a request to the preselected CompShop asking for comparative prices of the item and determining, by the SmartStore, whether an asking offer price is the best offer price that can be offered, wherein if the asking offer price is determined to be a lowest price, then the SmartStore returns its static price (see paragraphs 0039, 0043 and 0047. Paragraphs 0039 and 0047 disclose that a smartStore, that is pre-registered or selected supplier a participant in a private auction can send a request and access the comparative prices of the item. Paragraph 0043 teaches that after knowing the best offer price is lowest and it cannot go lower than that the supplier sends his static

price that is a price not modified to be lower than the lowest best offer from a competitor).

Referring to claim 4. Gilman further discloses a method of comprising:

If the asking offer price is determined not to be a lowest price, then adjusting, by the smartStore, the price and Returning a new price to the preselected CompShop (see at least paragraph 0043).

Referring to claim 12. Gillman further discloses a method comprising returning, by the preselected CompShop, the list of prices to the customer (see at least paragraph 0042 which disclose that the auction system, that is CompShop returns the list of prices received from suppliers to the user).

Referring to claim 13. Gillman further discloses a method comprising: Selecting, by the customer, based upon prices received, a choice of one of the plurality of electronic stores for providing the item (see paragraphs 0048-0049).

Referring to claims 14-15. Gillman further discloses a method wherein the item comprises a product and service (see at least paragraph 0023).

Referring to claim 16. Gilman further discloses a method wherein the best offer price is the lowest offer price (see at least paragraph 0045 discloses to accept the lowest current bid).

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Referring to claim 17. Gillman further discloses a method wherein the best offer price is the highest offer price (see at least paragraphs 0044 which disclose that the best offers from best delivery point of view are not the lowest but higher or can be highest.

Referring to claims 22-24, their limitations are closely parallel to the limitations of claim 1 and are therefore analyzed and rejected on the basis of same rationale.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4.1. Claims 5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillman and further in view of Cofino et al. (US Publication 2004/0015415) hereinafter, referred to Cofino

Referring to claim 5. Gillman further discloses a method wherein the at least one of the electronic stores automatically changes the price depending on what the lowest price is as recorded by the preselected CompShop (already analyzed above. See at least Paragraph 0043) but does not disclose changing the price based on a customer for the item asking for the price . However, in the field of same endeavor, Cofino teaches changing the price based on a customer for the item asking for the price (Cofino: Figure 7b shows offering a discount for a shopper Group A). In view of Cofino, it would have been obvious to one of an ordinary skill

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in the art at the time of the applicant's invention to have modified Gillman to incorporate the feature of changing the price based on a customer for the item asking for the price because it is well known to provide discounts to members of certain groups such as Government agencies or members of Costco or Sam's club get special discounts owing to the bulk purchases made by them resulting added revenues and profits for sellers.

Referring to claim 21. Gillman discloses a method wherein a price comparison is performed on an identical item (as analyzed in claim 1 above) but does not disclose performing price comparison on a substantially identical item, and wherein a graded price is offered on the substantially identical item. However, in the same field of endeavor, Cofino teaches performing price comparison on an identical item and a substantially identical item, and wherein a graded price is offered on the substantially identical item (see Cofino: see at least paragraphs 0040 and 0041 which disclose price-comparison is performed for both that is, an identical item and a substantially identical item, and wherein a graded price is offered on the substantially identical item. In view of Cofino, it would be obvious to one of an ordinary skilled in the art at the time of the applicant's invention to have modified Gillman to incorporate the feature of performing price-comparison for an identical item and a substantially identical item, and wherein a graded price is offered on the substantially identical item because it would enable stores/vendors to sell related/comparable products resulting in added revenues and profits.

4.2. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillman and further in view of Bot (PTO-892, Ref U, submitted on 6/18/2003).

Referring to claim 6. Gillman discloses that registered suppliers for private auctions, that is smartShoppers can access all the information about those auctions, competitor's prices, etc. and keeps a track of all those auctions (see at least paragraph 0038-0039 and 0047). Different auctions correspond to different web pages served by the server "20" in Fig.1. Gillman does not explicitly disclose maintaining, by the smartStore, a list of pre-selected comparison-shopping sites . However, in the field of same endeavor, Bot suggests maintaining, by the smartStore, a list of pre-selected comparison-shopping sites (see at least page 3, " Web Shopping.....Be wary of bots owned by sites that want to sell to you..". Here, bots correspond to Comparison shopping sites and the "sites" correspond to the smartStore, that is vendors). In view of Bot, it would have been obvious to one of an ordinary skilled in the art at the time of the applicant's invention to have modified Gillman to incorporate the feature that vendors maintain a list of such Bots or auction systems which provide opportunities to users to receive price comparisons for an item because it would help them to sell more of their products to the users.

Referring to claim 7. Gillman does not discloses that if a request is made from other than the list of preselected comparison shopping sites, then returning by the smartStore, a static price. However, Gillman discloses, see paragraph 0035, that suppliers who are registered with a private auction, that is corresponding to smartStores, are t allowed to view the competitor's prices and therefore these suppliers motivated to offer modified or discounted prices, and therefore similarly if these stores get RFQs from auction sites other than the one with which they are registered then they may not be able to view the competitor's prices and therefore would not be motivated to offer modified prices but would end up quoting their

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standard or static prices. The limitation that If the request for the price is from the list of preselected comparisons shopping sites, then submitting by the smartStore a request to the preselected CompShop to get a list of all comparison prices for the item is already covered in claim 3 above.

Referring to claim 8. Gillman further discloses a method comprising when the smartStore obtains the list of all comparison prices, determining whether the smartStore can offer a lowest price (see paragraphs 0039, 0043 and 0047).

Referring to claim 9. Gillman further discloses a method wherein the smartStore determines whether it can afford to offer a lower price based upon the comparison and its own cost price and required profit margin (see paragraph 0043).

Referring to claim 10. Gillman further discloses a method comprising if the smartStore can offer a lower price, then returning the lower price to the preselected CompShop (see paragraph 0043).

Referring to claim 11. Gillman further discloses a method comprising if the smartStore cannot offer a lower price, then returning its static price to the CompShop (this limitation already covered in claim 3 above).

4.3. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being obvious over Gillman and further in view of Official Notice

Referring to claims 18-20. Gillman does not explicitly disclose caching pricing information at the comparison shopping site or at the smartStore. However, examiner takes an Official Notice of the notoriously well-known fact and benefits of caching information in a special memory to duplicate the frequently used data values for quick access. In view of the Official Notice, it would be obvious to one of ordinary skill in the art to incorporate caches in Gillman for (a) to cache the preselected CompShop, the prices received from the plurality of electronic stores, (b) to cache the smartStore, a list of prices received from the preselected CompShop wherein the smartStore selectively visits the preselected CompShop such that information from the preselected CompShop is cached by the smartStore for comparison with a price request occurring between visits to the preselected CompShop because a cache is useful when RAM accesses are slow compared with the microprocessor speed because cache memory is always faster than main RAM memory.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


(i) US PG-Publication 2005/0240492 A1 to Grdina discloses that both shops and shoppers can request information on competitors' prices from an external database (see at least Abstract and paragraphs 0012-0013).

(ii) US Patent 6,076,070 to Stack teaches a method and apparatus for on-line price comparison with a competitor (see at least Abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yogesh C Garg
Primary Examiner
Art Unit 3625

YCG
November 9, 2005